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Canadian Transport Commission
Research Branch

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The Development of a Railway Freight Monitor in Canada

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Canada

PHASE I REPORT

THE DEVELOPMENT OF A RAILWAY FREIGHT MONITOR IN CANADA

by

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Preface

On June 26, 1986, Bill C-126 was tabled in Parliament calling for important changes to the regulation of Canadian transportation in general and railway transport in particular. The effects of these changes once implemented would be monitored with a view to their evaluation and to provide market information. The Bill proposes monitoring and review both annually and after four years of experience.

In anticipation of the information to facilitate both the 1992 review and continuous monitoring in the period after reforms are implemented in Canada, a Railway Freight Monitor is presently being designed by the Research Branch of the Canadian Transport Commission in cooperation with the Traffic and Tariffs Branch.

The current report represents Phase I of a two part study which describes the monitor development process, compares U.S. and Canadian regulatory environments and indicates some reasons why a regular monitor report would be of value. A preliminary monitoring report is also shown.

In the opinion of the Research Branch the development of an effective and efficient monitor report process requires consultation. This has been our experience with the Air Transport Monitor which has evolved as the users (customers) have indicated their preferences.

Consequently, this paper is being issued for discussion to stimulate thought and elicit reaction. The opinions expressed herein are the author's and do not necessarily reflect the views of the Canadian Transport Commission. Please direct any comments or questions to Joe Kruger, A/Chief, Bulk Freight Studies, at (819) 997-6541.

Richard W. Lake
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Canada

C'est notre année! en mouvement...au courant
It's our year! in motion...in touch
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1. INTRODUCTION

In mid 1985, the Canadian Government announced its intention to reform transport policy and legislation. The document ***Freedom to Move*** proposed a new philosophy and broad framework for reform in Canadian transportation embracing the concepts of

- less economic regulation in general,

- greater reliance on market competition, innovation and enterprise, and

- a more responsive regulatory process.

The proposed reforms were expected to result in lower prices, a wider choice of user services, and a more efficient transport system, ultimately promoting economic growth.

On June 26, 1986, Bill C-126, the new National Transportation Act was tabled in Parliament, incorporating most of the elements of ***Freedom to Move***. The effects of the proposed changes, once implemented, are difficult to assess with any degree of accuracy at this time. However, if general comparisons with U.S. deregulation under the Staggers Rail Act (SRA) are any indication, it can be expected that the overall impact will be beneficial but, there may also be some dislocations. Recognizing that there may be problems of adjustment to a reformed regulatory environment, the Minister of Transport, in Bill C-126, proposed that the effects of legislative reforms be

reviewed annually by the newly created National Transportation Agency, followed by a comprehensive review in 1992 after 4 years of experience. Although it is not known at this point in time exactly what the reviews will consist of, there is clear indication that regular monitoring is a necessary pre-requisite and a complement to the 4-year review.

In anticipation of the information required to facilitate both the 4 year review and continuous monitoring in the post rail deregulation period in Canada, a Railway Freight Monitor (RFM) is presently being designed by the Canadian Transport Commission's Research Branch in cooperation with the Traffic and Tariffs Branch. The goals of the RFM are:

(1) to develop a database of information concerning the impact of regulatory change on shippers, carriers, labour and government;

(2) to provide market information that would facilitate competitive decisions by carriers, shippers and potential shippers; and

(3) to provide timely analysis of current issues as they emerge.

The task is being undertaken in two phases with the present report describing Phase I of the study. It indicates the work now underway in CTC Research to develop the RFM, traces the changes brought about by deregulation in the United States and proposed changes in Canada and, looks at some

similarities and differences. Finally, reasons why a Railway Freight Monitor might be of value in a changing regulatory environment, are highlighted. A subsequent report will deal with Phase II, establishing the actual framework and data requirements for a Canadian RFM system.

Questions that must be answered in the second Phase include:

(1) What is to be measured: that is, what are the key items which will signal the effects of market changes on various parties?

(2) How should the measurement of this impact be affected; that is, what methodology could be employed?

(3) How and to whom will this information be communicated?

(4) What data are currently available, and what data will be required in future — giving due consideration to respondent burden and information cost?

2. REGULATORY REFORM IN CANADA

The need for regulatory reform in Canada has in large part emanated from changes in the U.S. regulatory regime that occurred following passage of

the Staggers Rail Act of 1980. The findings of the Canadian Transport Commission's 1985 Enquiry into the effects of the Staggers Act found that certain provisions of that legislation had put Canadian carriers at a disadvantage. Consequently, some realignment was thought to be necessary. Also, since the passage of the National Transportation Act (NTA) in 1967, there has apparently been a concensus developing (certainly among shippers) that some provisions of the Railway Act (RA) (namely Section 278), and the NTA (namely Section 23) among others, were not effective means of conflict resolution; change was needed.

The proposals to reform transport regulation in Canada emerged with the issuance by the Honourable Don Mazankowski, then Minister of Transport, of the **Freedom to Move** position paper in July of 1985. As indicated in the Minister's statement, reform is needed "*...to achieve economic renewal and growth (to) meet international competition.*".

This new philosophy for Canadian transportation is based on the following principles:

- reduced government involvement with regulation and control of transportation;

- more efficient residual regulation reducing the administrative burden on shippers and carriers;

- a more open and accessible regulatory process;

- greater reliance on competition and the forces of the marketplace, through inter and intramodal and multimodal competition and the promotion of new services; and

- a realignment of Canadian regulations with those of the U.S.

These proposed reforms were expected to result in lower prices, a wider choice of user services and generally a more efficient transportation system.

Following the circulation of **Freedom to Move** the House of Commons Standing Committee on Transport held extensive hearings and received numerous submissions on regulatory reform. A summary of pertinent Committee recommendations are as follows:

- Confidential contracts should be permitted for domestic and transborder traffic.

- Contracts should be filed with the Regulatory Agency and summaries excluding the "rate" be published.

- Confidential contracts should be ***monitored*** by the Regulatory Agency and this form of contracting be evaluated two and four years after enactment.

- Section 279 (RA) should be repealed.

- Collectively set joint-line rates should be permitted but not other forms of collective rate-making.

- The Regulatory Agency should be empowered to set joint-line rates.

- Section 276 (RA) should be retained with respect to compensatory rates and include penalty provisions to discourage predatory pricing.

- Third party appeals should be permitted on confidential contracts with respect to the provisions of Sections 262 and 276, RA dealing with service obligations and compensatory rates respectively.

- The Regulatory Agency should have the authority to amend rates and/or confidential contracts if freight rates are non-compensatory or a third party's common carrier obligations are affected.

- Section 278, (RA) regarding maximum rates should be repealed.

- Interswitching limits should be expanded to increase intramodal competition.

- Dispute resolution and reparation should be available through a series of legislative mechanisms; namely
  - mediation.
  - final-offer arbitration, and

- a streamlined Section 23 (NTA) regarding broad public interest questions.

- A reparations provision should be included in legislation.

- CN should be required to operate in a commercial manner according to private sector standards, which should be set and evaluated by an independent party.

- Uneconomic services should be clearly defined and appropriately compensated where deemed to be in the public interest.

- A review process should be established to *monitor* the impact of new transportation policies in two years.

- The Regulatory Agency should *monitor* the impact of new policies and report to the Minister of Transport.

- A Research function should be established in the Regulatory Agency.

- Policy direction should be provided to the Regulatory Agency through the Governor-in-Council.

- Statutory recognition should be given to the principle that transportation is a key instrument of regional economic development.

A review of Bill C-126 indicates that the majority of the Committee's recommendations have been incorporated. While in part these reforms represent a realignment with the U.S.A. regulatory regime, the proposed Canadian reforms go much further in attempting to alleviate shipper concerns regarding appeals, and competition through mandated or competitive joint-line rates, final offer arbitration, reparations, etc. The effect these latter reforms will have on the level of freight rates and the provision of railway services is difficult to predict. Ideally from the shippers' perspective, it is hoped that they will increase the quantity and variety of services at lower rates. From the railways view it is hoped they will provide for more efficient operations through cost reductions and thus maintain adequate compensation. An indirect way of attempting to estimate or assess the potential effects of proposed policy changes may be obtained by examining the results of the U.S. experience following 6 years of deregulation.

3. DEREGULATION IN THE UNITED STATES

By the early 1970s, it was clear that strict control of the U.S. Railroad Industry through regulation by the Interstate Commerce Commission (ICC) had resulted in a deteriorating system requiring extensive maintenance concurrent with severe cash flow deficiencies. The problem was particularly severe in the North-Eastern United States. Cash flow problems resulted in deferred maintenance that at one point amounted to $5.4 billion. Meanwhile, a large body of academic literature was accumulating espousing the benefits of competition and rejecting the use of detailed regulation as a surrogate for the marketplace. This literature combined with the bankruptcy of the

such railroads as the Penn Central, Rhode Island, etc., led effectively to almost full deregulation of transport in the United States.

The Railroad Revitalization and Reform Act (4R Act) of 1976 began the major shift in emphasis away from government regulation of transport industries towards dependence on market forces. The new philosophy left decisions on financial returns, treatment of workers, suppliers and users to the competitive market.

However, the achievements of the 4R Act were considered mixed and pressures increased for a more profound relaxation of regulation. Regulation by competition became the accepted approach and new laws were passed reflecting this mood. Airlines were deregulated in 1978, motor and household goods carriers in 1980 and intercity buses in 1982. The watershed for railroads was the Staggers Rail Act of 1980. This law went far beyond the 4R Act by allowing among other things:

- confidential contracts and rebates;

- virtual unilateral cancellation of joint rates and through routes;

- much easier adjustment of rates and services in general than before, and

- exemptions from the authority of the ICC for many commodities while limiting the jurisdiction of the ICC on others through the "market dominance" threshold.

The SRA not only realigned U.S. regulatory practices with the existing Canadian rules but went well beyond by permitting the use of confidential contracts and virtually open-ended plant rationalization by railroads. Clearly, the key focus of the SRA in practice is the restoration of the physical facilities and financial stability of the U.S. railroads.

4. MONITORING THE EFFECTS OF STAGGERS (SRA)

The SRA reduced the power and authority of the ICC while at the same time it made the Commission responsible for implementing, interpreting and monitoring the Act. The Commission has approached its task by identifying matters that require rulings or changes in procedure and using Ex-Parte proceedings information is gathered specific to a particular issue. The ICC takes this data and with its pool of experienced and knowledgeable staff, analyses and documents the facts. Through this process the Commission makes its rulings and also accumulates a body of information, enabling it to monitor the effects of the SRA. The Commission publishes information in its annual reports, in summaries of proceedings, and in its decisions.

In addition to the ICC, the Transportation Committees of the House and Senate have mandates to conduct oversight hearings. These are meant to identify problems/solutions relating to implementation of Government policy, in this case the SRA. Additional proceedings are held in response to public

pressure for legislative change or amendments to existing laws. The Congress also has access to the various branches of government that do research into specific transportation matters. Government bodies such as the Congressional Research Service (CRS), the General Accounting Office (GAO), and the Department of Transport (DOT) among others, have specialized transportation staff and undertake studies on request or on their own initiative. Other branches such as the Bureau of Labor Statistics provide regular publications of Freight Rate Indices.

From an industry perspective the Association of American Railroads (AAR) does monitoring activities on behalf of its members and acts as a spokesman for the industry at most proceedings. Numerous special interest groups also exist, such as C.U.R.E., (Consumers United for Rail Equity) R.A.M., (Railroads Against Monopoly), C.F.A. (Consumers Federation of America), to name a few, all of which evaluate the SRA and publish information that affects their members.

Clearly there are many diverse groups affected by rail deregulation in the U.S., each interested in monitoring its effects, but regular monitoring of the effects of SRA is confined to the Annual Reports of the ICC and Congressional Oversight Hearings. More often, monitoring is sporadic and is done on an exception basis. Information is brought into the public domain as part of a proceeding, special study or investigation usually in response to a problem. Information produced in this way is irregular and can reflect the sometimes narrow special interest of the parties involved. This may not always be an objective source of data nor present the total picture. Except for the Contract Advisory Service (CAS), established by law in the ICC to

provide information and advice on confidential contracts on a regular basis, there does not appear to be any other attempt to establish a central monitoring activity or data base at the present time.

One thing is certain, under deregulation in the U.S. less information is publicly available. Confidential contracts are becoming increasingly popular; the use of this method of establishing rate and service packages has increased from 768 contracts in 1981 to more than 34,000 in 1986. Some estimate that this may account for 50% of total traffic. Only brief summaries of these contracts are in the public domain, and without a set format they are difficult to interpret.

The problem of availability of data is being further compounded with proposed budget cuts initiated by the Reagan Administration. For example, it was recently proposed by the Administration that the ICC budget be reduced to zero as of the end of 1986. This, along with other budget reducing measures (Gramm-Rudman-Collings), may preclude maintenance of an adequate transportation data base for government, shippers and carriers.

A brief review of the literature concerned with various oversight hearings in the Senate and the House, and Ex Parte proceedings, leads to some general conclusions with respect to the effects of Staggers. There appears to be a general concensus concerning the beneficial effects of less regulation and more competition on the major U.S. railroads. Financially, the industry has greatly improved since the mid 1970's, and this is directly attributable to the removal of regulatory restrictions. It also appears that

this enhanced profitability has arisen from both growth in revenues and reduction in costs.

While generally, the effects of deregulation are viewed positively, some shippers are not pleased. Most notably, those shippers considered captive, such as coal shippers for example, feel they have not received the protection from railway monopolistic practices that that the SRA called for and which they were expecting. Recently, numerous representations have been made to Congress to remedy this situation with new legislation such as H.R. 4096 proposed by C.U.R.E. This bill proposes to maintain the basic premise of the SRA while enhancing protections for shippers who are caught in situations of railroad market dominance.

The Staggers legislation has certainly enabled the railroad industry in the United States to consolidate and improve its financial position dramatically. However, the current interpretation and monitoring of the effects of the legislation have not significantly reduced the uncertainty regarding whether there exists an adequate balance between the relative market power of railroads, shippers, and consumers. For example, the ICC uses the revenue adequacy criterion as one of the bases for its intervention in railroad/shipper disputes. It compares the annual return on investment for a railroad to its estimated current cost of capital. This has been a point of controversy. It has been argued that the way in which the ICC determines revenue adequacy is not realistic. It is unlike criteria used by any other U.S. regulatory body or financial analyst and it is perceived to bias the regulatory process in favour of railroads. A shipper who wishes to dispute a rate increase is essentially wasting his time unless the railroad

concerned is considered "revenue adequate". Dr. Mark Cooper speaking on behalf of the Consumer Federation of America before the Senate Commerce Committee in November 1985 stated the following:

> "Our member groups regularly participate in proceedings at the Federal and State levels, as have I on numerous occasions. We win some cases and we lose some, but above all, we have a sense that the process is reasonable — that the rules are impartial and the deliberative bodies are engaged in a good faith effort to balance the needs of consumers and the providers of monopoly services. That simply is not the case with the ICC's implementation of the captive shipper provisions of the Staggers Act."

At a recent oversight hearing of the House Subcommittee on Commerce, Transportation and Tourism concerned with the sunset of the ICC, the President of Potomac Electric and Chairman of C.U.R.E. echoed and reinforced those sentiments. On the question of revenue adequacy, he also stated:

> "Specifically, the Commission has established standards for evaluating the adequacy of a railroad's revenues which are at odds with financial reality and which no railroad now satisfies, or will in the foreseeable future satisfy. The resulting apparent inadequacy of the railroad's revenues is in turn relied upon to justify the

> reasonableness of the railroad's rates for captive shippers."

This reflects generally the attitude of those who feel that the implementation of the Staggers Rail Act by the ICC has not produced beneficial results for them. Of paramount importance is the uncertainty with respect to fair and equitable treatment of all parties by the regulatory body. As stated by the National Association of Regulatory Utility Commissioners in March 1984:

> "(The ICC defines) revenue adequacy, on which several pricing freedoms for railroads under the Staggers Act are based, unrealistically, so that no Class I railroads, no matter how profitable, are considered to have adequate revenues, and highly profitable railroads will be allowed billions of dollars in extra rate increases."

The ICC has responded to these and other criticisms by making adjustments to its regulatory rules: the onus of proof in market dominance disputes is now on the railroad rather than the shippers; more information regarding confidential contracts is being released in certain cases; changes to cost criteria used in determining revenue adequacy and reasonable rates are also being considered, etc.

5. CANADA AND THE U.S.—A COMPARISON

As in the United States, Canadian railway regulation is now going to rely on market driven factors more so than before. Historically, the evolution of the Canadian regulatory regime has been similar to that for the U.S. The railways initially held a virtual transport monopoly in many parts of the country. The involvement of government was precipitated by the fact that railways' decisions affected the economic fabric of industries and sometimes entire regions. With the advent of extensive highway construction and the Great Lakes and St. Lawrence Seaway, trucking and water competition eroded the monopoly power of the railways. Airlines, intercity buses, and alternatives such as pipelines also reduced the railways' market. Although competition was increasing, Government was still setting freight rates and requiring the maintenance of certain services in the public interest (Statutory Grain, Passenger Services and Branch Lines). Initially, the railways were not compensated directly but required cross-subsidization to extract appropriate revenues.

The National Transportation Act of 1967 began deregulation in Canada. Within the confines of Sections 276 and 278 of the Railway Act the railways could establish rates and services based on market conditions in direct competition with other modes. Compensation mechanisms for publicly imposed duties were also put in place. Although the focus of this legislation was to enable the railways to remain competitive through pricing freedom in a changing market environment it was not considered beneficial to promote intramodal price competition at that time.

The U.S. and Canadian transportation environments are closely related, but it is important to recognize that political, geographic and population differences do exist. As noted earlier the present reform of transportation regulation in Canada is largely a response to the events which have occurred in the United States but, a closer look reveals that U.S. deregulation and Canadian proposals for railway regulatory reform are quite different. For example, U.S. legislation primarily focussed upon improving and revitalizing the general financial condition of the railroad industry. In contrast, Bill C-126 is more shipper oriented; its impact upon the Canadian railways is less clear. Competition between private and Crown owned railways is uniquely Canadian. Another important difference is that, whereas route cancellations for competitive purposes are now permitted in the U.S., Canada is moving in another direction, towards competitive joint-line rates. These are rates which allow the shipper to access a connecting rail carrier with whom they have been able to negotiate a satisfactory rate, although the originating carrier will be short-hauled.

These Canadian reforms among others, will alter the present regulatory regime, but they will also differ significantly from the changes which have occurred in the U.S.: their impact is less certain. There is no doubt that as experience is gained with the new rules in Canada, adjustments will be required (as they have been in the U.S.). Regular monitoring and comprehensive, reliable data will be essential in this regard. This fact has been fully recognized in the proposed legislation. For example, Section 266 (Part VIII) of the draft legislation deals with the four-year review of the new act, and related acts. Some of the items to be considered with respect to railways in this review will include, the overall success of the new

policy directions, and the adequacy of new legislation in achieving these goals. Also the effect of confidential contracts on shippers, carriers and on the efficiency of the railway system, will be reviewed. Additional items to be evaluated will include compensatory rate provisions, competitive access achieved by shippers, and any other matters specified by the Governor-in-Council.

Annual reviews would also be conducted in each of the four years leading up to the overall review. These yearly reports are expected to deal with:

- changes in tariffs of carriers;

- service level changes provided to shippers;

- structural and performance changes of the industry including number of carriers operating and/or ceasing to operate;

- the time required to deal with complaints or applications; and

- any other matter referred to in the Act or requested by the Minister of Transport.

6. DEVELOPMENT OF A REGULAR MONITORING ACTIVITY

Some key elements will have to be addressed in the development of a Railway Freight Monitor. First and most important, will be the translation of the proposed policy and legislation into a form from which appropriate measures of impact can be defined.

Naturally, there are as many ways of assessing the effects of legislation as there are indicators that can be thought of. Therefore, monitoring in this sense may not be as straightforward as it seems initially. Guidelines must be determined so that the criteria used become generally acceptable. Impact measurement principles should consider the full range of relevant interest groups' perspectives. A consultative approach with interested and affected groups should be seriously considered. Several iterations may be required.

Secondly, monitoring would be expected to compare or contrast rail transportation indicators before and after enactment of the new legislation. In the aftermath of regulatory change, there will be a significant increase in uncertainty as competing organizations adjust to the new rules. An RFM should provide a base of information which adequately reflects what is occurring in the transportation marketplace. To the extent that policy adjustments are required, directions given by the Governor-in-Council or the Minister to the new agency will be better informed if based on regular and accurately monitored information.

Another element to be resolved is to whom the monitor report will be distributed. The type of information it contains would likely be extremely useful not only for the required 1-year and 4-year reviews, but also in providing shippers and carriers with information (non-confidential of course) to enhance competition (perhaps by using benchmarks) where less or no data would otherwise be publicly available. This will provide an important feedback mechanism. Appendix I provides a broad outline of a preliminary list of proposed items to be monitored. This list touches on the various key aspects of Bill C-126 and so deals with the leading indicators of the legislation's effects. An initial RFM using this framework and 1984 as the base year, is now being developed as part of Phase II of this project.

7. THE RAISON-D'ÊTRE FOR A RAIL FREIGHT MONITOR

The obvious question that arises in debates on the merits of deregulation is: In an environment where competition is considered the ideal, and regulation is considered harmful and perhaps contributes to imperfection and inefficiency; why not leave the players to their own devices (i.e., market forces) come what way?

Everyone accepts that some form of open competition in a mature market is beneficial. However, there is less of a concensus that unbridled competition is both safe and efficient in all markets. Canada lacks the domestic market, industrial concentration and diversity present in the U.S. Consequently Canadian industry is more sensitive to monopoly power under unbridled competition. It may be preferable to balance the economic power of carrier and shipper so that all can benefit. As a result, in Canada, there

is widespread recognition of the need for regular monitoring and reviews of the effects of the proposed legislation. Throughout the hearings of the Standing Committee the arguments have been in favor of flexibility and the ability to adjust if necessary in the event the results are not as beneficial as originally perceived.

In addition monitoring by government on behalf of all users is also considered preferable. If only private interests collect and dissiminate information presumably this view will reflect positively on their own needs and not necessarily on the needs of the wider community of transport users and carriers. Also the government must bear a major share of the responsibility for the changes that will be occuring and it is therefore logical that government with its wider perspective and mandate should be the focal point of the monitoring process. There is a need to coordinate diverging views with independent data and analysis. An example from the U.S. experience illustrates this point.

At a recent hearing of the U.S. House of Representatives' Sub-Committee on Transportation in February 1986, the President of the AAR introduced evidence regarding the rate of increase of coal freight rates. It was claimed that between the years 1972 and 1984, rail coal rates in current dollars rose from 1.20 to 2.50 cents per ton-mile. This represented an increase of 108%, which when compared with a 219% rail inflation rate indicated a declining coal rate over that period in inflation adjusted terms.

The counter argument was presented by the President, Potomac Electric Power Company, and Chairman of C.U.R.E. His evidence indicated that

coal freight rates for many companies had increased significantly between 1979 and 1984. He gave some specific example of increases between 47% and 80%. This coupled with the fact that the AAR's own evidence indicated significant productivity gains (train loads 17% higher; train miles/train hour 18% higher; ton-miles per employee 38% higher etc.) implying lower costs; led C.U.R.E. to the conclusion that excess monopoly profits were being taken from captive coal shippers.

Obviously, these two points of view are so far apart that it is extremely difficult to reconcile them without independent analysis. This requires data and information of the type that could be collected and presented in a monitoring report.

At the present time Canadian shippers can assess their transport prices vis-à-vis their competitors by comparing them with published rates and tariffs. This "rate transparency" has been a basic touchstone of Canadian rail freight negotiations. Also, carrier services provided are comparable and "common carrier obligations" are in effect.

Following regulatory reform as proposed in the draft legislation (C-126), confidential contracting will be permitted. Prices as well as service conditions would likely be negotiable and confidential to the contracting parties. This information will be filed with the new National Transportation Agency but will have extremely limited access. Consequently, shippers will no longer be able to determine their competitors' transport prices from published rates. Although some tariffs would still be publicly available, third parties would not be able to determine what proportion of a

competitor's traffic moved under a contract or a published rate. In fact, one wonders how shippers could appeal rates considered prejudicial to themselves other than in a frivolous manner, without having that type of information at hand. (The adequacy of information to support an appeal has been an issue in the U.S.A. as well. Confidential data has been released in some instances in order to permit a shipper to make a case).

Reduced access to public information will require shippers to devote more human and financial resources toward the development of adequate market intelligence in order to remain competitive in negotiations. Logically, this environment would favour larger shippers with more resources. It follows that established shippers will also have an advantage compared with new entrants to an industry. A monitor can provide some indicators or benchmarks to fill this need.

In the carriers' case, the elimination of collective pricing may intensify the locational disadvantages of a particular industry. For example, a shipper local to CP Rail who has a locational advantage compared with a similar shipper on CN Rail would automatically be in a preferred rate position from a cost perspective; all other things equal. This in turn would affect not only that shipper who is competing for the same market but ultimately the cash flow of CN. Clearly, there may be effects of regulatory reform that cannot be anticipated. There will not only be a need to understand how many confidential contracts are being negotiated and what carrier obligations are in effect, among other things, but what the impact of these facts are both regionally and nationally. Monitoring on a regular basis should bring such issues to light.

In the U.S., after 6 years of deregulation, the monitoring and review activities that have occurred (by government and private interests) although sporadic have produced a base of information on the effects of regulatory reform. This has resulted and is in the process of creating changes and fine-tuning of the rules. However, it has taken a great deal of time; six years later many important issues are still unresolved. Perhaps with regular and consistent monitoring and dissemination of information this evolutionary process could have been accelerated. Furthermore, the loss of data, due to budgetary constraints and reduction in filing requirements, together with the ad hoc approach taken, may lead to somewhat biased and perhaps self-serving results, when considering deregulation's impact. There may be an important lesson here for Canada.

APPENDIX 1

SAMPLE OF ITEMS TO BE MONITORED

1. POLICY DIRECTIONS TO AGENCY - SUMMARY

2. REGULATORY MATTERS/ENQUIRIES, HEARINGS, ARBITRATIONS, DECISIONS, ETC. - SUMMARY OF ISSUES, TIMING ETC.

3. RUNNING RIGHTS & JOINT TRACK USAGE - Where agreements apply, over what mileage, and typical compensation arrangements.

Areas	Radius Mileage	Timing & Compensation
e.g. Kamloops-Vancouver	± 240 miles	5 years; per wheel charge

4. FREIGHT RATES - Summarized by major commodity groups possibly with average rates or relative changes in rates.

NUMBER FILED OR PUBLISHED

Agreed Charges	Confidential Contracts	Competitive Line Rates	General Tariffs	Other Rates	Appeals
e.g. 100	5	1	2	NIL	1

5. CONFIDENTIAL CONTRACTS - Summarized by major commodity groups, with useful descriptive information.

	SUMMARY BY INDUSTRY	
Terms	Average Duration	Rebates or Discounts
e.g. volume committment service conditions escalation clause, etc.	1 year	Yes

6. COMPETITIVE LINE RATES & JOINT RATES - Summarized by major commodity groups similar to 5.

Negotiated	Agency Established
e.g. 10	2

7. DESCRIPTION OF LEVEL OF SERVICES - Summary by major commodity groups indicating the relative change in service parameters.

Average Haul	Weight/Car	Revenue/Car
e.g. 700 mi	80 tons	$300

8. MARKET & MODAL SHARES IN FREIGHT - Summarized in both volume and revenues to indicate any shifts which may be occurring.

	Rail					
	CP	CN	Total	Truck	Vessel	Air
e.g.	45%	55%	30%	10%	50%	10%

9. INDEX OF REVENUES AND PROFITABILITY - Information summarized to indicate the financial impact of new policy.

Rev/Cost Ratios	ROI	ROE
e.g. CP 2:1	8%	12%
CN 1.8:1	16%	-

10. INDICES OF EFFICIENCY - Measures which will indicate productivity changes.

e.g. Revenue per $ investment
Revenue per employee hour.
etc.

11. TRENDS & ISSUES - Brief Analysis and evaluation of issues as they emerge.

e.g. Impact of "Free Trade"; trends in shipments, modal shares and total freight bills of major commodities.

12. REGIONAL DEVELOPMENT INDICATORS - Summary of information on regional impacts.

	Eastern	Central	Western
e.g.	Rail Shipments	x	x
	Rail Revenue		
	Rail Employment		
	Industry Shipments		
	Industry Revenues		
	Industry Employment		

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